

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

GLENN A. HENKE and LINDA KLUNER,  
individually and on behalf of all others  
similarly situated,

Plaintiffs

v.

ARCO MIDCON LLC, MAGELLAN  
PIPELINE COMPANY, L.P., and WITEL  
COMMUNICATIONS, L.L.C.,

Defendants.

Civil Action No. 4:10-cv-00086-HEA

**DEFENDANT ARCO MIDCON'S  
MOTION TO DISMISS AND STRIKE**

Defendant ARCO Midcon LLC respectfully moves to dismiss Count IV (strict liability), Count V (declaratory and injunctive relief) and Count VI (breach of contract) and to strike certain other allegations of Plaintiffs' Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of this Motion, Defendant ARCO Midcon incorporates the arguments set forth in the accompanying *Defendant ARCO Midcon's Memorandum in Support of Motion to Dismiss and Strike*.

Dated: April 15, 2010

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 15, 2010, I electronically filed *Defendant ARCO Midcon LLC's Motion to Dismiss and Strike* with the Clerk of the U.S. District Court for the Eastern District of Missouri, using the CM/ECF system which will send notification of such filing(s) to counsel of record:

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